



AIKIDO AND THE TRIAL ATTORNEY

by Joseph Caulfield, Esq. and James W. Hagedorn, Ph.D.

Aikido is a modern Japanese martial art invented by a man of truly extraordinary abilities, Morihei Ueshiba, during the 1930's. It's roots, however, stretch back a thousand years. It is a system of "waza", or techniques designed to neutralize aggressive force and enable the Aikidoist to enter into the attacker's space and occupy the center of his movement. Although the physical throws and pins of Aikido are quite spectacular to watch, the real Aikido takes place on a psychological level. In this article, we will attempt to do two things: first, to place the attorney's trial work within the context of an overall Aikido perspective; and second, to describe some Aikido techniques and how they may and, in fact, have been used in the trial arena.

Aikido teaches the importance of letting the consciousness sink into the hara, that area in the lower hips which is the body's natural center of gravity and nexus of its physical and psychic power. When attacked, the aikidoist keeps this focus, thus maintaining balance and control over his power. When an opposing attorney launches an assault, the aikido-minded trial lawyer keeps at least some of his concentration on this inner center. This helps the attorney feel solid, grounded, and confident. It also prevents being scattered, distracted, or pulled into the opponent's sphere of influence. Furthermore, when you are focused within yourself, your opponent has the disconcerting feeling that her best attack failed to capture your full attention and was somehow inconsequential.

When the Aikidoist's concentration becomes action, it flows smoothly from the one point and does so with a grace and intensity of power that is both beautiful and irresistible. This is the channeling of "ki", or physical and spiritual

energy. The aikidoist not only draws upon his own power, but somehow taps into and directs energy that transcends himself. Applying this principle, a trial attorney does not get seduced into an unnecessary expenditure of energy, nor does he become intimidated by the power of the attack. Instead the attorney carefully times his countermeasures and effects them with an intensity and power that sweeps aside opposition and flows on to the desired destination.

Given this aikido mindset of inner focus and of channeling power, there are a number of specific techniques which can be employed. One such technique is called "irimi", or "to enter". On the physical plane it involves a strong forward movement toward the attacker, characterized by a powerful twist of the hips which permits the aikidoist to supplant the attacker's space and to leave the attacker weak with his kuzushi (balance) broken. I (the attorney author) was recently involved in a marital matter whereas my client, the former wife, was losing both the custody of her children and the right to occupy the marital abode due to her obsession with her boyfriend. The boyfriend's obsessions were alcohol and stealing. I was engaged only after multiple contempts had been filed against the former wife and she had previously had to place a sizable peace bond which she was in danger of forfeiting because of her flaunting of previous orders that she not permit her boyfriend to be in the presence of the children. In that the Court was rather annoyed with my client and in that there was a videotape allegedly documenting her violation of the Court Orders, the conference with the Court's Probation Officer was rather grim and tense. The former husband's attorney somberly informed the Probation Officer that the boyfriend had not only been convicted

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previously of theft, but had recently stolen a wallet. The former husband's attorney turned to me with a look which said: "Let's see you get your client out of this." As the Probation Officer sternly awaited my response, I thoughtfully paused until the aggressive forces arrayed against me reached a crescendo. I then responded, "He must have been confused and thought it was his wallet." The former husband's attorney, quite taken back, stammered, "No, no he knew it wasn't his wallet." I said, "Oh" and pretended to study my notes. I said, "Oh yes! I have information here that indicates that he was drinking at the time." The probation officer, despite herself, burst out laughing and the former husband's attorney was forced to also laugh, so as not to risk offending the Probation Officer. The former husband's attorney could never recover the momentum necessary to come away with anything other than my client being firmly admonished by the court, her freedom and money intact. My client was grateful, and at last report was in compliance with the Court's Orders. The irimi technique of Aikido, the strong forward movement with a twist, dissipated the aggressive force arrayed against my client and myself, leaving her unharmed.

Another Aikido movement is "tenkan" or "turn". This is a technique in which the aikidoist moves from the front of an attacker to the attacker's rear, where the attacker is defenseless. Here the aikidoist is able to join his or her force to that of the attacker, rather than having to oppose it. Another marital matter brought me into the midst of a contested custody trial. The husband, representing himself but backed by a militant father's rights group who, with placards accompanying him everywhere, had just introduced several photographs which he described as fairly and accurately representing their children left unattended on a busy street while in my client's

custody. In that the court seemed impressed, I did not feel that the customary tactic of minimizing adverse evidence or attempting to explain it away would suffice to protect my client's interests. Tenkan proved ideal, however. To the obvious amusement of the very courtwise husband and his followers, I began a course of questioning which permitted the husband to delightfully embellish his perception of the dangers their children faced as he blithely snapped his photographs. He left the stand well pleased that I had presented him with such an opportunity, but with no hope of being awarded custody. A good push in the direction that the attacker thinks he wants makes even the most sure-footed stumble.

A third useful Aikido technique is called "tenshin" or "more backward". It is a sudden opening up and retreat from aggressive force causing the aggressive force to spend itself uselessly. My first jury trial was the defense of a young man charged with murder. The victim was the son of the Mayor of Boston's best friend. The undisputed facts were that my client went to a formal dinner hopped up on drugs. After the appetizers, he pulled out an old gun. Saying, "Do you want to see me kill time?" he missed the clock, and hit the victim. The only hope to save my client from a long prison sentence was to assist the jury in finding less culpability than the state alleged. I wasted no trial time on attempting to rebut these very tragic facts, other than to keep out evidence of the bloody clothes.

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Joseph Caulfield, Choyokan Dojo



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I figured that the less I struggled with the State's case, the less of the State's case the jury would hear. As often happens in criminal cases, the State tended to use excessive force, gilding each nail of your client's coffin. After just questioning each of the first four police officers offered by the State enough so that the jury knew that I was still in the case, I began with the fifth, who happened also to be the Department's firearms expert. Into the void which I had created, I tossed a few "Johnny-the-dunce" type questions regarding old guns, hair triggers, and defective safeties. As I handed the gun to the Officer so that he could demonstrate his answer (they all love to demonstrate their answers), a click louder than 10,000 cannons went off in the Courtroom. I froze and dropped the gun. The jury appreciated how such a gun could go off by accident and returned only manslaughter.

My client did a little over two years. After he was in jail a couple of months, as is often the case, he wrote me that he had found God and recommended that I change my wicked ways. I wrote back to him: "Look at the bars and consider which side you're on." When a void is created through the technique of tenshin, only the slightest force is necessary to throw your attacker.

This, then, is a brief summary of the way in which some of the rich principles and techniques of a martial art, Aikido, can be applied to the practice of trial law. They can help you win. In order to be true to the spirit of both Aikido and the criminal justice system, however, one final point should be made. If you were to observe Aikido practice close-up, you would see an attacker and a defender engaged in intense competition. At a more distant perspective, however, the combatants appear more as partners, whirling through the kagura mai, the Dance of the Gods. Similarly, from a microcosmic perspective, the law is an adversarial process and the attorneys in a courtroom are opponents intent on

defeating one another. From a more macrocosmic point of view, by fulfilling their roles, the attorneys are participating together in a flow of something larger - the process of justice. Thus, by understanding and applying Aikido principles to the practice of trial law, the attorney may enjoy both the song of victory and the harmony of the greater whole.

Spring Seminar at Gyokushinkan Dojo: Developing Aikido in Arkansas

by James Jones

Springtime in Arkansas means pleasant weather, flowing mountain creeks, wildflowers and intensive Aikido training. All of these elements have been traditional to Arkansas except for Aikido. On April 15-17, Keith Moore instructed an Aikido Seminar at Gyokushinkan Dojo in Ft. Smith, Arkansas. Mr. Moore spent three years as uchideshi under Shihan Toyoda, and he brought to this seminar an overall focus and intensity that he is known for. His instruction stressed basic movement and its relationship to technique, both basic and advanced; a total of 23 Aikidoka attended three days of rigorous training, followed by promotion testing.

Gyokushinkan Dojo is one of the newest schools affiliated with AAA and the only one in Arkansas. Its roots date back to the mid 60's as the area's first karate dojo. In the late 1980's an Aikido program was offered to compliment karate studies. As the popularity of this program grew, it became clear that a deeper source of physical and mental input was needed. In 1992, Arkansas Budokan became officially affiliated with AAA. With training and guidance from Toyoda Sensei and his students, Gyokushinkan Dojo was formed and now provides instruction for Arkansas and eastern Oklahoma.

O-Sensei's dream was to spread Aikido to all corners of the world. Through Toyoda Sensei and the AAA, this is coming true in Arkansas.